

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Media East, LLC)	File Number: EB-10-NF-0021
)	
Licensee of Station WLGT (AM))	NAL/Acct. No.: 201132640001
Washington, North Carolina)	
Facility ID # 48399)	FRN: 7636145

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: February 8, 2011

Released: February 10, 2011

By the Resident Agent, Norfolk Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Media East, LLC, (“Media East”), licensee of Station WLGT(AM), in Washington, North Carolina, apparently willfully and repeatedly violated section 73.3526 of the Commission’s Rules (“Rules”)¹ by failing to maintain and make available a public inspection file. We conclude that Media East is apparently liable for a forfeiture in the amount of twelve thousand dollars (\$12,000). We further order Media East to submit a sworn statement certifying that it is currently in compliance with section 73.3526 of the Rules.²

II. BACKGROUND

2. On March 9, 2010, an agent of the Enforcement Bureau’s Norfolk Office (“Norfolk Office”) inspected the main studio for Station WLGT in New Bern, North Carolina. In response to the agent’s request for inspection of the station’s public inspection file during regular business hours, Media East was unable to produce any public inspection file documents dated after 2006. Station WGTL’s station manager stated that the current public inspection file documents were kept at Media East’s headquarters in Statesville, North Carolina.

III. DISCUSSION

3. Section 503(b) of the Communications Act of 1934, as amended (“Act”), provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.³ The term “willful” as used in section 503(b) of the Act has been interpreted to mean simply that the acts or omissions are committed knowingly.⁴ The term “repeated” means the commission or omission of such act more than once

¹ 47 C.F.R. § 73.3526.

² *Id.*

³ 47 U.S.C. § 503(b).

or for more than one day.⁵

4. Section 73.3526 of the Rules states that “[e]very permittee or licensee of an AM, FM, TV or a Class A station in the commercial broadcast services shall maintain a public inspection file containing the material” set forth in this section.⁶ For example, commercial AM and FM broadcast stations must include every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three-month period.⁷ The public inspection file must be maintained at the station’s main studio,⁸ and must be available for public inspection at any time during regular business hours.⁹

5. An agent from the Norfolk Office requested to inspect Media East’s public inspection file during regular business hours on March 9, 2010 at the station’s main studio. As discussed above, the only public inspection file documents available during the inspection were dated more than three years before the inspection. The station manager stated that Media East’s complete public inspection file for Station WLGT is maintained at Media East’s headquarters in Statesville, North Carolina. Based on the evidence before us, we find that Media East apparently willfully and repeatedly violated section 73.3526 of the Rules by failing to maintain a complete public inspection file at the Station WLGT main studio. We also find that Media East apparently willfully violated section 73.3526 of the Rules by failing to make available a complete public inspection file at the time of inspection.

6. Pursuant to section 1.80 of the Rules, and the Commission’s *Forfeiture Policy Statement*, the base forfeiture amount for violation of public file rules is \$10,000.¹⁰ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.¹¹ Because the documents in the station’s public inspection file were more than three years old and, therefore, the public inspection file at the Station WLGT main studio was apparently incomplete for over three years, we find that a \$2,000 upward adjustment is warranted. Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Media East is apparently liable for \$12,000 forfeiture.

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⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act....” See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991) *recon. denied*, 7 FCC Rcd 3454 (1992).

⁵ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

⁶ 47 C.F.R. § 73.3526(a)(2).

⁷ 47 C.F.R. § 73.3526(e)(12).

⁸ 47 C.F.R. § 73.3526(b).

⁹ 47 C.F.R. § 73.3526(c).

¹⁰ 47 C.F.R. § 1.80; *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999).

¹¹ 47 U.S.C. § 503(b)(2)(E).

7. We direct Media East to submit a statement signed under penalty of perjury by an officer or director of Media East stating that a complete public inspection file is available at Station WLGT's main studio. This statement must be provided to the Norfolk Office at the address listed in paragraph 12 within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture*.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.311, 0.314 and 1.80 of the Commission's Rules, Media East, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twelve thousand dollars (\$12,000) for violations of sections 73.3526 of the Rules.¹²

9. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Media East LLC, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. **IT IS FURTHER ORDERED** that Media East, LLC **SHALL SUBMIT** a sworn statement as described in paragraph 7 to the Norfolk Office within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture and Order*.

11. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.¹³ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payments by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. FCC Form 159 may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Media East shall also send electronic notification to SCR-Response@fcc.gov on the date said payment is made.

12. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. The written statement must be mailed to Federal Communications Commission, Enforcement Bureau, South Central Region, Norfolk Office 1457 Mount Pleasant Rd, Suite 113, Chesapeake, Virginia 23322 and must include the NAL/Acct. No. referenced in the caption.

¹² 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80, 73.3526.

¹³ 47 U.S.C. § 504(a).

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Media East, LLC, at 702 Hartness Rd., Statesville, NC 28677.

FEDERAL COMMUNICATIONS COMMISSION

Luther Bolden
Resident Agent
Norfolk Resident Agent Office
South Central Region
Enforcement Bureau